

Deschutes TMDL & Litigation

Background

The Deschutes River, Percival Creek, and Budd Inlet Tributaries (Phase 1) TMDL study area is located in south Puget in Thurston and Lewis Counties, Washington. The Washington Department of Ecology submitted the final Phase 1 Deschutes TMDL to EPA for approval on December 17, 2015.¹ That document addresses a total of 73 waterbody-pollutant combinations, caused by temperature, dissolved oxygen [DO], pH, fecal coliform, and fine sediment.

Litigation

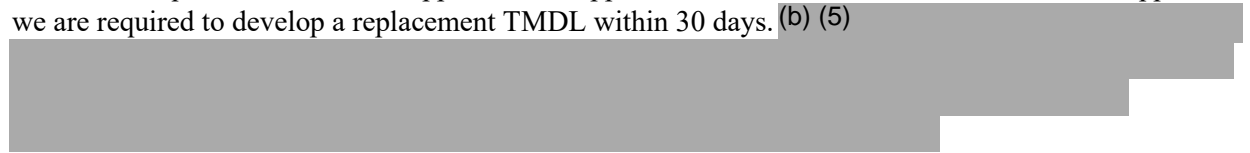
On September 6, 2017, Northwest Environmental Advocates (NWEA) filed a complaint against EPA alleging violation of section 303(d)(2) of the Clean Water Act (CWA) for failure to act on the Deschutes River TMDL submission. Section 303(d)(2) requires EPA to either approve or disapprove a state's TMDL submission within 30 days of submittal.

(b) (5)

A large rectangular area of the document has been redacted with a solid gray fill.

Current Status

The CWA requires EPA to either approve or disapprove state-submitted TMDLs, and if we disapprove, we are required to develop a replacement TMDL within 30 days. (b) (5)

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Next Steps

A briefing on the proposed TMDL decisions for the RA is currently scheduled for May 21st. In addition, the Region will coordinate with HQ OWOW staff on needed background/briefing materials for AAOW. Once final decisions have been made on the TMDL, the Region will need to work quickly with HQ and the State on the disapproved segments to determine how replacement TMDLs will be developed.

¹ Marine segments (Phase 2, Budd Inlet) are planned for completion in 2020.

From: [Havard, James](#)
To: [Lewicki, Chris](#); [Monschein, Eric](#); [Hunter, Christopher](#)
Subject: FW: Deschutes paper
Date: Tuesday, May 1, 2018 12:10:33 PM
Attachments: [Deschutes TMDL background 5-01+tw.docx](#)

I told Tom I thought this cover note looked fine

From: Wall, Tom
Sent: Tuesday, May 01, 2018 2:27 PM
To: Havard, James <Havard.James@epa.gov>
Cc: Hunter, Christopher <Hunter.Christopher@epa.gov>; Monschein, Eric <Monschein.Eric@epa.gov>; Lewicki, Chris <Lewicki.Chris@epa.gov>
Subject: RE: Deschutes paper
This version incorporates Chris' update on TMDL #s
Tom Wall, Director
Watershed Restoration, Assessment and Protection Division
Office of Wetlands, Oceans and Watersheds
U.S. EPA
Wall.tom@epa.gov
202/564-4179

From: Wall, Tom
Sent: Tuesday, May 01, 2018 2:23 PM
To: Havard, James <Havard.James@epa.gov>
Cc: Hunter, Christopher <Hunter.Christopher@epa.gov>; Monschein, Eric <Monschein.Eric@epa.gov>; Lewicki, Chris <Lewicki.Chris@epa.gov>
Subject: RE: Deschutes paper
Thank you, some very minor edits in the attached version (sorry, didn't use redline)
How does look for text for a cover email:

Dave/Lee/Benita

(b) (5)



We understand the RA is generally aware of this issue but is not scheduled to be briefed in detail by Region 10 staff on their recommendations until late May, which that means there won't be much time for interaction with the Region before the June 29 deadline. Thus, in the event Dave may wish to talk to the RA sooner, we prepared the attached paper to provide more background information on the issue and the reasons for the potential disapprovals. Dave may wish to review the paper and call the RA?

We can provide additional information if that would be helpful.

202/564-4179

From: Havard, James

Sent: Tuesday, May 01, 2018 9:58 AM

To: Wall, Tom <Wall.Tom@epa.gov>

Cc: Hunter, Christopher <Hunter.Christopher@epa.gov>; Monschein, Eric <Monschein.Eric@epa.gov>; Lewicki, Chris <Lewicki.Chris@epa.gov>

Subject: Deschutes paper

Hi Tom –

John had asked for a Deschutes update paper this week. Thanks to Chris Hunter, who prepared the attached draft. Can you take a look/send on to John? Thanks!

Jim